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May 15, 1996

BY OVERNIGHT MAIL

Mr. William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: CC Docket No. 96-98

Dear Mr. Caton:

Enclosed for filing please find an original plus eighteen (18) copies, two of which are marked "Extra Public Copy," of the Comments of Frontier Corporation in the above-docketed proceeding.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed, self-addressed envelope.

Very truly yours,

Michael J. Shortley, III

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	**CC Docket No. 96-98**
	)	
	)	

COMMENTS OF FRONTIER CORPORATION

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May 15, 1996

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Executive Summary

In these comments, Frontier sets forth a series of core principles that should guide the Commission in its deliberations.

Core Principle No. 1: The Commission must establish mandatory national guidelines in the areas set forth in the Notice. The regulations that the Commission establishes to implement sections 251 and 252 of the Communications Act will have a multitude of effects -- from defining the interconnection, unbundling and resale obligations of incumbent exchange carriers -- indeed, all telecommunications service providers -- to defining the key conditions for Bell company entry into the interexchange business. The Act embodies a *national*, pro-competitive policy for which the Commission is ultimately accountable. Lest that policy be frustrated by state action inconsistent with national goals, the Commission should adopt binding federal policies.

Core Principle No. 2: The Commission should make clear that all unbundled elements and interconnection services are available for purchase by all telecommunications providers for any lawful purpose, including the provision (or procurement) of interstate access services. Implementation of the Act will eliminate the traditional distinctions among incumbent exchange carriers, interexchange carriers and others. To attempt to confine the availability of unbundled elements solely for the purpose of the provision of competitive local exchange services is untenable and a direct contradiction to the words of the Act.

Core Principle No. 3: The Commission should adopt a mandatory set of unbundled network elements and associated points of interconnection. Additional unbundling should be available upon request, subject only to the showing set forth in the Act that such unbundling is technically infeasible. The Commission should place the burden of proof upon the party from whom additional unbundling is requested to demonstrate why such unbundling is not technically feasible.

Core Principle No. 4: The Commission should establish a pricing standard based upon total service long run incremental cost (applying a risk-adjusted cost of capital) ("TSLIRC") as the pricing standard for unbundled network elements and interconnection services. The Act contemplates an incremental-cost-based pricing standard and that is the only pricing standard that ensures that all market participants will be able to compete on the basis of their own relative efficiencies and not those of their competitors.

Core Principle No. 5: The Commission should prescribe resale regulations that enforce fully the Act's mandates. The Act unequivocally provides that *all* services provided to customers other than telecommunications providers *shall* be made available for resale. The Act also mandates a particular pricing approach -- wholesale prices *shall* be set at retail price minus costs that *will be avoided*.

Core Principle No. 6: The Commission should define reciprocal compensation obligations as provided for in the Act, namely, based upon the "additional costs" incurred to terminate another telecommunications provider's traffic.

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COMMENTS OF FRONTIER CORPORATION

Introduction and Statement of Interest

Frontier Corporation ("Frontier"), on behalf of its incumbent local exchange, competitive local exchange, interexchange and wireless subsidiaries, submits these comments in response to the Commission's Notice initiating this proceeding.[1] The Telecommunications Act of 1996 ("Act") has charted a new course for the telecommunications industry -- indeed, for the entire national economy. The Act stamps a new, pro-competitive imprimatur on the Communications Act of 1934. It promises to extend the benefits of competition already witnessed in the interexchange and many wireless businesses to the local exchange arena. The Act embodies the goals of increased competition and expanded consumer choice that will result in lower prices, higher quality services and increased consumer choice.

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[1] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Dkt. 96-98, Notice of Proposed Rulemaking, FCC 96-182 (April 19, 1996) ("Notice").

The pro-competitive opportunities that the Act facilitates are a much welcome change from the current scheme which still defends and protects incumbent exchange carriers. Frontier offers a unique, pro-competitive perspective on the policy choices facing the Commission in this rulemaking. Through its interexchange carrier subsidiaries, Frontier is familiar with the challenges of operating in a highly competitive business. Its competitive local exchange and wireless affiliates have taught it the problems of obtaining an equal footing with the incumbent local exchange carrier Conversely, through the Open Market Plan of its largest exchange carrier subsidiary[2] -- Rochester Telephone Corp. -- Frontier is the only incumbent exchange carrier in the nation electing voluntarily to open its local exchange business to competition and to understand the difficulties and shortcomings of that process. Thus, Frontier is uniquely a "been there" and "done that" family of companies, which offers the insight only its unique experience provides.

It is from these diverse roots in the industry that Frontier can help the Commission make the threshold determinations that are necessary for the new competitive paradigm embodied in the Act to be established and to take hold. All competitors must receive a real opportunity to succeed. This is in stark contrast to the existing regulatory regime that merely tends to preserve the *status quo* in a slowly-evolving form. The Act not only

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[2] *See Petition of Rochester Telephone Corp. For Waivers To Implement Its Open Market Plan*, FCC 95-96, Order, 10 FCC Rcd. 6776 (1995)

mandates the new competitive paradigm, it seeks to achieve its goals in a reasonable period of time. It is within this framework that Frontier submits these comments.

Summary of Position

Rather than address each and every issue raised in the Notice, Frontier concentrates its comments on a series of core principles that should guide the Commission in its deliberations.

Core Principle No. 1: The Commission must establish mandatory national guidelines in the areas set forth in the Notice. The regulations that the Commission establishes to implement sections 251 and 252 of the Communications Act will have a multitude of effects -- from defining the interconnection, unbundling and resale obligations of incumbent exchange carriers -- indeed, all telecommunications service providers -- to defining the key conditions for Bell company entry into the interexchange business. The Act embodies a *national*, pro-competitive policy for which the Commission is ultimately accountable. Lest that policy be frustrated by state action inconsistent with national goals, the Commission should adopt binding federal policies.

Core Principle No. 2: The Commission should make clear that all unbundled elements and interconnection services are available for purchase by all telecommunications providers for any lawful purpose, including the provision (or procurement) of interstate access services. Implementation of the Act will eliminate the traditional distinctions among incumbent exchange carriers, interexchange carriers and

others. To attempt to confine the availability of unbundled elements solely for the purpose of the provision of competitive local exchange services is untenable and a direct contradiction to the words of the Act.

Core Principle No. 3: The Commission should adopt a mandatory set of unbundled network elements and associated points of interconnection. Additional unbundling should be available upon request, subject only to the showing set forth in the Act that such unbundling is technically infeasible.[3] The Commission should place the burden of proof upon the party from whom additional unbundling is requested to demonstrate why such unbundling is not technically feasible.

Core Principle No. 4: The Commission should establish a pricing standard based upon total service long run incremental cost (applying a risk-adjusted cost of capital) ("TSLIRC") as the pricing standard for unbundled network elements and interconnection services. The Act contemplates an incremental-cost-based pricing standard and that is the only pricing standard that ensures that all market participants will be able to compete on the basis of their own relative efficiencies and not those of their competitors.

Core Principle No. 5: The Commission should prescribe resale regulations that enforce fully the Act's mandates. The Act unequivocally provides that *all* services provided to customers other than telecommunications providers *shall* be made available for resale.[4]

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[3] 47 U.S.C. § 251(c)(3).

[4] 47 U.S.C. § 251(c)(4)(A) (emphasis added).

The Act also mandates a particular pricing approach -- wholesale prices *shall* be set at retail price minus costs that *will be avoided*.[5]

Core Principle No. 6: The Commission should define reciprocal compensation obligations as provided for in the Act, namely, based upon the "additional costs" incurred to terminate another telecommunications provider's traffic.[6]

Argument

I. THE COMMISSION SHOULD PROMULGATE MANDATORY FEDERAL GUIDELINES IMPLEMENTING THE ACT'S FUNDAMENTAL REQUIREMENTS.

(Scope of the Commission's Regulations -- Notice, § II(A))

The Act vests certain responsibility in state regulatory bodies to help execute some of its provisions. For example, section 252 approval of negotiated agreements and arbitration is left, in the first instance, to the states.[7] Although state responsibility under the Act is substantial, the Act did not leave its implementation entirely to the discretion of the state regulatory bodies, even in the first instance. The Act entrusted to this

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5 47 U.S.C. § 252(d)(3) (emphasis added).

6 47 U.S.C. § 252(d)(2)(A)(ii).

7 47 U.S.C. § 252(a), (b).

The Act also provides the states with a significant role in consulting with the Commission regarding whether any Bell company petition to enter the interexchange business satisfies the requirements of section 271 of the Communications Act. 47 U.S.C. § 271(d)(2)(B).

Commission the responsibility for promulgating regulations implementing the fundamental unbundling, interconnection and resale provisions of the Act.[8]

While the states play a valuable role in many areas of telecommunications, the Act presents special circumstances. If the most fundamental policy implementation decisions are left to the states in the first instance, a likely result would be fragmented and inconsistent decisions that would -- in many instances -- retard entry, frustrate the development of competition and favor incumbent exchange carriers. There is clearly a federal interest in promoting local entry because interconnection and unbundled elements are non-severable from intrastate communications and are necessary for the origination and termination of interstate communications.[9] The Commission has recognized the benefits that would flow from uniform national rules:

> We see many benefits in adopting such rules to implement section 251. Such rules should minimize variations among states in implementing Congress's national telecommunications policy and guide states that have not yet adopted the competitive paradigm of the 1996 Act. Such rules could also expedite the transition to competition, particularly in those states that have not adopted rules allowing local competition, and thereby promote growth in state, regional and national markets.[10]

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8 47 U.S.C. § 251(d)(1).

9 *Louisiana v. FCC*, 476 U.S. 355 (1986).

10 Notice, ¶ 28.

The Commission's decisions in this proceeding will provide a national policy framework within which the states will fulfill their responsibilities under the Act. Initially the states, but ultimately, this Commission will determine whether a telecommunications provider -- particularly, an incumbent exchange carrier -- has met its absolute unbundling, interconnection and resale obligations under sections 251 and 252. Federal guidelines will also establish a portion of the framework under which to evaluate Bell company compliance with section 271 -- in particular, the "competitive checklist"[11] -- that serves as a prerequisite for Bell company entry into the in-state, interexchange business.

In short, the Act creates an integrated structure of federal-state action. Federal guidelines are to be used to frame future state decisions, either by the states themselves or by this Commission.[12] While the Act leaves the details of non-policy matters -- at least in the first instance -- to the states in many circumstances relevant here, it does not leave the states bereft of or free from mandatory federal policy guidance.

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11 47 U.S.C. § 271(c)(2)(B).

12 *Cf.* 47 U.S.C. § 252(e)(5) (requiring Commission to act if a state commission fails to carry out its responsibilities).

II. ANY TELECOMMUNICATIONS CARRIER SHOULD BE PERMITTED TO PURCHASE UNBUNDLED ELEMENTS AND INTERCONNECTION SERVICES TO PROVIDE ANY TELECOMMUNICATIONS SERVICE.

(Interconnection, Collocation and Unbundled Elements -- Notice, § II(B)(2))

As the Commission notes,[13] certain parties have suggested that the unbundled elements and interconnection services provided for under sections 251(c)(2) and (3) may not be used as a substitute for the Part 69 access charge rules. This view is absolutely untenable, both as a matter of statutory construction and policy. Read together, sections 251(c)(2) and 251(c)(3) permit any telecommunications carrier to acquire interconnection services and unbundled elements for the purpose of offering any telecommunications service. Section 251(c)(2)(A) imposes on incumbent local exchange carriers:

> the duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network —
>
> > (A) for the transmission and routing of telephone exchange services and exchange access.

By its terms, section 251(c)(2)(A) defines -- not the *uses* to which interconnection services may be put by "any" requesting telecommunications carrier -- but rather the *obligations* of incumbent local exchange carriers. That is, the incumbent local exchange

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[13] Notice, ¶¶ 162-64.

carrier must offer interconnection that is *capable* of routing both telephone exchange service and exchange access. The section does not limit the purposes for which interconnection services may be utilized.

Section 251(c)(3) -- which must necessarily be read in conjunction with section 251(c)(2)[14] -- confirms this interpretation. It places on incumbent local exchange carriers:

> the duty to provide, to any requesting telecommunications carrier *for the provision of a telecommunications service*, nondiscriminatory access to network elements on an unbundled basis.... An incumbent local exchange carrier shall provide such unbundled network elements in a manner that allows requesting carriers to combine such elements *to provide such telecommunications service*.[15]

By its terms, section 251(c)(3) permits "any" requesting telecommunications carrier to order unbundled network elements for the purpose of providing any telecommunications service, including interexchange service. It does not require that a requesting carrier offer *all* -- or some limited subset of -- telecommunications services as a precondition to the purchase of unbundled elements.

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[14] Interconnection and unbundled access are complementary concepts. Interconnection defines the rights and obligations of carriers to allow connections to their networks. Unbundled access defines which network elements will be available for interconnection as options to those who have interconnected to the carrier's network.

[15] 47 U.S.C. § 251(c)(3) (emphasis added)

This interpretation -- contrary to the Commission's suggestion otherwise[16] -- is fully consistent with sections 251(g) and 251(i) of the Act. Section 251(g) preserves existing wireline equal access and non-discrimination obligations pending the promulgation of superseding regulations by the Commission.[17] Similarly, section 251(i) is merely a general savings provision that preserves the Commission's section 201 authority. Neither section purports to restrict or limit the rights or obligations conferred under sections 251(c)(2) and (3).

Moreover, a restrictive interpretation of sections 251(c)(2) and (3) ultimately would be self-defeating. As the Commission notes, were it to interpret section 251(c)(2) to preclude the purchase of interconnection services solely for the purpose of acquiring interstate access services, a telecommunications carrier could merely establish an affiliate for the purpose of purchasing interconnection services to offer exchange access to its affiliated long distance carrier.[18]

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16 Notice, ¶ 164.

17 Joint Explanatory Statement of the Committee of Conference, Cong. Rec. at H1110 (Jan. 31, 1996).

18 Notice, ¶ 162.

Nor is there any reason to believe (*see id.*) that arrangements where an interexchange carrier (other than an incumbent local exchange carrier) self-provides access would run afoul of the Communications Act. For antitrust purposes, exclusive dealing arrangements are viewed with suspicion only if such arrangements result in substantial market foreclosure. *See, e.g., Tampa Elec. Co. v. Nashville Coal Co.*, 365 U.S. 320 (1961). Under the arrangement posited by the Commission, market foreclosure cannot occur because all interexchange carriers may obtain the necessary local interconnection and access from the incumbent local exchange carrier Moreover, even if such exclusive dealing arrangements were held to be

That the pricing of interconnection services or unbundled elements may create arbitrage opportunities vis-a-vis Part 69 access services should be viewed as beneficial, not detrimental. With or without price caps, incumbent exchange carriers can adjust access price levels to minimize differences in access prices vis-a-vis interconnection/unbundling. This allows market forces to correct some of the inefficiencies in access pricing. At the same time, access pricing reform should also proceed.

Arbitrage opportunities (*e.g.*, special vs. switched access) already exist today. The Act does not provide an "arbitrage opportunity" defense to its interconnection and unbundling rights and obligations.[19] Such pricing anomalies, moreover, are simply not sustainable. As the Commission observes:

> Radically different pricing rules for interconnection and unbundled elements on the one hand, and levels of interstate access charges, on the other, may create economic inefficiencies and other anomalies. Indeed, under a long-term competitive paradigm, it is not clear that there can be a sustainable distinction between access for the provision of local service and access for the provision of long distance service. *Thus, we are cognizant of the need to consider these issues in a coordinated manner, and believe it is critically important to reform our*

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unreasonable practices, the affiliated access provider could merely offer its services to unaffiliated telecommunications carriers as well.

[19] To the extent that the Act's mandates require incumbent exchange carriers to rebalance their existing rates, they should be encouraged and permitted to do so.

interstate access charge rules in the near future.[20]

But, "radically different rules" are not, of themselves, economically inefficient. "Rules" do not create inefficiencies, prices do. As noted, most irrational price differences can be self-corrected by exchange carriers themselves who have substantial downward pricing flexibility on access charges, and some upward pricing flexibility where price caps are in place.

III. THE COMMISSION SHOULD ESTABLISH MANDATORY FEDERAL INTERCONNECTION AND UNBUNDLING STANDARDS.

(Unbundled Network Elements -- Notice, § II(B)(2)(c))

The Commission should take action in three areas: (1) prescribe a minimum set of interconnection points and unbundled elements; (2) prescribe performance and quality guidelines that apply to the provision of such services; and (3) establish federal guidelines for addressing the provision of additional interconnection services and unbundled elements. In each area, the Act sets forth the relevant standards. Sections 251(c)(2) and (3) provide that interconnection and unbundled elements shall be provided "at any technically feasible point" and on "conditions that are just, reasonable and nondiscriminatory."

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[20] Notice, ¶ 146 (emphasis added).

A. The Commission Should Prescribe a Minimum Set of Interconnection Points and Unbundled Elements.

Section 251(d)(1) of the Act requires the Commission to "determin[e] what network elements should be made available for purposes of subsection (c)(3)."[21] This requirement dictates that the Commission also determine a threshold set of interconnection points to allow reasonable access to those unbundled elements. This minimum set of network elements[22] will influence where the exchange carrier will provide its primary network interconnection. The statutory standard for determining points of interconnection is "technical feasibility,"[23] while the statutory standard for unbundling is the needs of purchasers of such elements.[24]

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21 *See* Notice, ¶ 77.

22 The Act defines a network element as:

> A facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions and capabilities that are performed by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing or other provision of a telecommunications service.

47 U.S.C. § 3(a)(45).

23 47 U.S.C. § 251(c)(2)(B).

24 47 U.S.C. §§ 251(c)(3), 251(d)(2).

Effective, national unbundling rules are critical to the development of competition. Absent such rules, incumbent local exchange carriers will have an incentive to engage in strategies that make elements and element packages undesirable or not optimal by forcing unwanted elements on requesting telecommunications carriers. This will delay the ability of new entrants to combine different network elements and services to offer their services -- in a way they determine is best -- to the public. Thus, the Commission must quickly define a set of unbundled elements and interconnection points so that local exchange competition may develop in the near future, as the Act contemplates.

The Commission has identified four categories of network elements for which it proposes to require unbundling: loops, switching, transport facilities, signaling and databases.[25] Such a list cannot be all-inclusive because the needs of telecommunications carriers are being formulated now and will evolve over time. The list proposed herein, therefore, provides only a starting point for prescribing a minimum set of unbundled elements in the face of the current lack of information.

1. Loops

There is little question that a local loop (defined as the facility from the central office to the customer's premise) may be offered as an unbundled network element. Rochester today offers unbundled loops under its tariffs. Similarly, interconnection to unbundled

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[25] Notice, ¶ 93.

loops should be provided at the connections between: (a) the central office and the loop; and (b) the loop and the drop block (the entrance link to the customer's premises).

2. Switching

Local switching can also be unbundled from both common line (loop) and transport services. There should be two types of unbundled switching elements: line switching and trunk switching. The interconnection points are at the line switching and trunk switching ports. Switching provides the functions of dynamic call routing for the origination and termination of communications on a line or a trunk port, as well as translation, signaling, daily usage measurement (for billing) and intelligent network ("IN") primitives for ports connected to presubscribed end-user lines of the requesting telecommunications carrier.[26]

3. Transport

The Commission currently requires incumbent exchange carriers to offer various transport services on an unbundled basis. The Commission's Expanded Interconnection[27] and Transport Restructure[28] initiatives have resulted in the type of unbundling that the Act contemplates.[29] The unbundled elements should be special access rate elements,

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26 *See, e.g., Intelligent Networks*, CC Dkt. 91-346, Comments and Reply Comments of Allnet Communication Services, Inc. (March 3. 1992, April 6, 1992 and July 19, 1995).

27 *E.g., Expanded Interconnection with Local Telephone Company Facilities*, CC Dkt. 91-141, Memorandum Opinion and Order, 9 FCC Rcd. 5154 (1994).

28 *E.g., Local Exchange Carrier Switched Local Transport Restructure Tariffs*, DA 93-1579, Order, 9 FCC Rcd. 400 (Com. Car. Bur. 1993).

29 Notice, ¶¶ 104-05.

entrance facilities, dedicated transport and common transport (including access tandem switching). Points of interconnection include the end points of a transport element and the port of a tandem switch.

4. Signaling and Databases

Unbundled access to signaling and databases is critical for competing providers to offer their services to the public.[30] With respect to signaling, the Commission should require interconnection to provide unmediated access to signaling links (A and D links), signal transfer points ("STPs") and service control points ("SCPs"), as well as non-proprietary signaling protocols.[31] This degree of unbundling will permit competing carriers to offer a variety of advanced features and functions, including direct control of IN functions on presubscribed lines. Points of interconnection include the ends of signaling links, ports to STPs and signaling link ports to SCPs.

5. General

The above unbundling and interconnection proposals all have the virtue that the Commission need not investigate in depth their technical feasibility. Such forms of

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30 *Id.*, ¶¶ 110-11

31 *Id.*, ¶ 109.

Frontier notes, in this regard, the inherent anti-competitive danger in the use of proprietary signaling protocols. Closed protocols can effectively prevent interconnected networks from communicating with each other, a result directly contrary to the pro-competitive goals of the Act.

unbundling are already inherent in the access charge structure and expanded interconnection offerings. The Commission may presume their technical feasibility.[32]

B. The Commission Should Establish Minimum Performance and Service Quality Requirements Governing the Provision of Interconnection Services and Unbundled Elements.

The theoretical availability of interconnection services and unbundled elements is a necessary, but not sufficient, condition for the viability of local exchange competition. The services offered to competing carriers must not be viewed by the ultimate end-user customer as perceptibly inferior to those provided by the incumbent local exchange carrier. Competitive local exchange carriers must aggressively market their services to consumers. However, customers simply will not consider alternative providers if their services are inferior to those of the incumbent local exchange carrier. Because the incumbent -- as both a supplier and a competitor -- has the incentive to offer inferior services to its competitors, to permit service to degrade or to respond less aggressively to competitors' complaints,[33] it is critical that the Commission establish minimum performance guidelines that result in enforceable quality assurance incentives and guarantees.

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32 Frontier also supports the Commission's proposal to unbundle operator services. *Id.*, ¶ 116.

33 Frontier's competitive local exchange operations have experienced this problem. Cutover and other provisioning problems by the incumbent exchange carrier that have occurred have sometimes resulted in the perception that Frontier's competing local exchange operation is inferior to that of the incumbent exchange carrier and have resulted in some customer dissatisfaction, lost sales and churn.

The Commission need not attempt to draft comprehensive service standards -- an exercise in which a number of states have engaged with a mixed track record at best. Rather, the Commission should require incumbent exchange carriers to offer interconnection, unbundled elements and resold services equal in type and quality to those that they provide to themselves. This test is intended to allow competitors to offer services that can be perceived as equal in type and quality to those received by the end-user customers of incumbent local exchange carriers. This standard does *not* require incumbent local exchange carriers to compensate for the shortcomings of particular competitors.

The Commission should also require incumbent exchange carriers to document and report their actual performance in serving interconnection customers as compared to their own operations. The Commission already possesses experience in this area, having required the Bell companies -- in *Computer III* -- to report service quality measures for their own enhanced services operations compared to those of their competitors.[34] The Commission should appropriately modify those reporting requirements to cover basic services. Deviations between services that incumbent local exchange carriers provide to interconnection customers as compared to services that they provide to themselves should constitute a *prima facie* case that the affected incumbent exchange carrier has failed to

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[34] *Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry)*, CC Dkt. 85-229, Report and Order, 104 FCC 2d 958, 1053-57, ¶¶ 187-93 (1986), *vacated sub nom., California v. FCC*, 905 F.2d 1217 (9th Cir. 1990).

fulfill its duty to provide interconnection services and/or unbundled elements on just, reasonable and nondiscriminatory terms.

Such failures should be met with substantial penalties -- including delayed entry into the in-state, interexchange business. Only by putting real teeth into non-discrimination requirements will incumbents be provided with the incentive to offer services that their competitors need and to which they are entitled under the Act.

C. The Commission Should Establish a Federal Presumption in Favor of the Deployment of New Unbundled Elements and Additional Points of Interconnection.

The baseline set of unbundled services reflects today's technology. However, with the rapid pace of technological advance that characterizes the industry, additional unbundling and points of interconnection will be technically feasible -- sooner, rather than later. The Act's unbundling and interconnection requirements are not static. The "technically feasible" and "needs" standards set forth in sections 251(c)(2) and (3) must be considered in light of technological and market changes.

In order to implement the dynamic nature of the "technically feasible" and "needs" standards, the Commission should establish a federal presumption in favor of the provision of additional unbundled elements and interconnection points, where requested. To do so, the Commission should assign the burden of proof to the incumbent exchange carrier to demonstrate -- in response to requests for additional unbundled elements or